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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant: Lon T. Spada, et al.) Examiner
Serial No.: 10/808,652) Kaufman,
Filed: 03/24/2004) Joseph A.
For: SKIRTED CLOSURE FOR SMALL) Art Unit
DROPPER BOTTLES) 3754

January 2007

REPLY BRIEF UNDER 37 C.F.R. 1.193

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

This reply brief is filed in response to certain new grounds for rejection raised by the Examiner and the Examiner's Answer of November 21, 2006.

In particular, the Examiner has stated that drawings could not be used to determine the equal radii even if the concave surface were shown.

This is clearly in contrast with the holdings in Vas-Cath, Inc. v. Mahurkar, 19 U.S.P.Q 2d 1111 (Court of Appeals Federal Circuit 1991) wherein the court stated that the drawings alone may be sufficient to provide the "written description of the invention" required by 35 USC 112, first paragraph.

Further, this court has stated that the specification may, in fact, be amended to describe the showing in the drawings and the rule against "new matter" would not be violated. This is because consideration of what the drawings convey to persons of ordinary skill is essential. Ralston Purina Company v. Far-Mar-Co., Inc., 227 USPQ 177 (CAFC 1985).

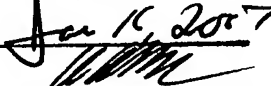
In view of the case law supporting the Appellants position, the Appellant submits that the Examiner's conclusions are erroneous.

Respectfully submitted,



Walter A. Hackler, Reg. No. 27,792
Attorney of Record
2372 S.E. Bristol, Suite B
Newport Beach, California 92660
(949) 851-5010

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